

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

James L. Roudabush, Jr., #82038-083, )  
  )  
Petitioner,                                 )  
  ) Civil Action No. 8:18-2116-BHH  
v.    )  
  )  
Warden FCI Edgefield,                     )  
  )  
Respondent.                                 )  
\_\_\_\_\_)

This matter is before the Court on Petitioner James L. Roudabush's pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), the matter was referred to a United States Magistrate Judge for initial review.

On August 8, 2018, Magistrate Judge Jacquelyn D. Austin filed a Report and Recommendation ("Report") outlining the issues and recommending that the Court summarily dismiss this petition without prejudice and without requiring Respondent to file an answer or response based on Petitioner's failure to state a cognizable habeas corpus claim pursuant to § 2241. Specifically, the Magistrate Judge concluded that Petitioner's claims, which all challenge the conditions of his confinement, are not cognizable pursuant to § 2241 and instead may be raised in a *Bivens* action.<sup>1</sup>

Petitioner filed objections to the Magistrate Judge's Report, reiterating that he is challenging the conditions of his confinement and asserting that he may raise his claims pursuant to § 2241 because he is challenging the execution of his sentence. In addition,

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<sup>1</sup> As the Magistrate Judge noted, Petitioner has filed numerous actions in this Court pursuant to *Bivens* regarding the conditions of his confinement. See ECF No. 11 at 6, n.3.

Petitioner filed a motion for the recusal of the undersigned and Magistrate Judge Austin. After review, the Court finds Petitioner's objections without merit and agrees with the Magistrate Judge that Petitioner's claims are subject to dismissal because they are not cognizable pursuant to § 2241. In addition, the Court finds no basis to grant Petitioner's motion for recusal. Accordingly, it is hereby

**ORDERED** that the Magistrate Judge's Report (ECF No. 11) is adopted and specifically incorporated herein; Petitioner's objections (ECF No. 15) are overruled; Petitioner's motion for recusal (ECF No. 17) is denied; and this § 2241 petition is dismissed without prejudice and without requiring Respondent to file an answer or return.

/s/Bruce H. Hendricks  
The Honorable Bruce Howe Hendricks

November 14, 2018  
Charleston, South Carolina